**REMARKS**

Claims 1-68 are pending in the instant application. The Examiner has subjected the pending claims to a Restriction Requirement as follows:

Group I, claims 1-41, drawn to methods of assessing muscle damage in a subject via one or more biological samples having one or more different myofilament protein modification products, classified in class 436, subclass 536;

Group II, claims 42-50, drawn to kits that assess muscle damage in a subject via one or more biological samples, classified in class 422, subclass 61;

Group III, claims 51-55, drawn to screening methods which identify agents that modulate the levels of a chemical adduct of myofilament proteins, classified in Class 435, subclass 7.21; and

Group IV, claims 56-60, drawn to a method of assessing muscle damage in a subject via sample exposure to at least one compound that binds a chemical adduct of a myofilament protein modification product, classified in class 424, subclass 184.1. In accordance with a telephone message from the Examiner to Dr. Stephen Scribner on or about May 2, 2001, it is believed that claims 61-68 were also meant by the Examiner to be included in Group IV.

The Examiner suggests that the inventions are distinct from each other. Specifically, with respect to Groups I, III and IV, the Examiner suggests that the inventions are unrelated because the methods have different steps and employ independent reagents. With respect to Groups II and III, the Examiner suggests that the inventions are patentably distinct. Finally, with respect to Groups I, II and IV, the Examiner has acknowledged their relationship as product and process of use. However, the Examiner suggests that those groups are distinct because the kits of Group II can be used in, what the Examiner suggests to be "materially different processes" of Group I or Group IV.

Applicants respectfully traverse this Restriction Requirement.

At the outset, Applicants respectfully disagree with the Examiner's suggestion that the methods of claims 1-41 and claims 56-68 are "materially different processes". Contrary to the Examiner's suggestions, claims 56-68, like claims 1-41 are drawn to a method for assessing muscle damage in a subject by evaluating for the presence or absence of one or more different myofilament protein modification products wherein at least one of said myofilament protein modification products is a chemical adduct of a myofilament protein. Claims 56-68 merely specify one embodiment by which the presence or absence of one or more different

myofilament protein modification products can be evaluated. Thus, Groups I and IV should not be considered distinct as defined in MPEP § 802.01.

Accordingly, the Examiner's basis for restriction of Groups I and IV, as well as Group II containing claims drawn to kits for use in the claimed methods, is flawed. It is therefore respectfully requested that reconsideration be given to this Restriction Requirement and that at least Groups I, II and IV be examined together in the instant application.

Further, with respect to Group III, MPEP § 803 sets forth two criteria which must be met for a proper restriction requirement. The first is that the inventions be independent or distinct; the second is that there would be serious burden on the Examiner if the restriction is not required. A search for methods for evaluating for the presence or absence of one or more different myofilament protein modification products wherein one of the myofilament protein modification products is a chemical adduct of a myofilament protein would also clearly reveal any references that teach methods for screening for agents which modulate levels of a chemical adduct of a myofilament protein. Thus, including Group III in the prosecution of this application, as well as Groups I, II and IV, should not place any undue or serious burden on the Examiner.

Accordingly, reconsideration of this Restriction Requirement and searching and examination of pending claims 1-68 of the instant application are respectfully requested.

However, in an earnest effort to be completely responsive, Applicants elect to prosecute Group I, claims 1-41, with traverse.

Respectfully submitted,

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